

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

NEW YORK STATE ASSEMBLYWOMAN
DIANA C. RICHARDSON and NEW YORK
STATE SENATOR ZELLNOR Y. MYRIE,

Plaintiffs,

v.

THE CITY OF NEW YORK, Mayor BILL de
BLASIO; NYPD Commissioner DERMOT SHEA;
NYPD Chief of Department RODNEY HARRISON,
as successor in interest to TERENCE MONAHAN
(retired); and NYPD Members of the Service
JOSEPH B. TAYLOR, JESSICA CLINTON,
GIOVANNI CALDERON, SOLOMON C. JACOBS,
JORGE PEREZ, MICHAEL KOVALIK,
MICHAEL A. CIOTA, MAX BERMUDEZ,
ANDREW VENTRELLA, ERIC OLFANO, HARRY
KERR, and JOHN DOE #1,

Defendants.

Case No. 21-cv-3609-LDH-SJB

**NOTICE OF ACCEPTANCE OF
DEFENDANTS' RULE 68
OFFER OF JUDGMENT**

PLEASE TAKE NOTICE that, pursuant to Federal Rule of Civil Procedure 68, Plaintiffs
DIANA C. RICHARDSON and ZELLNOR Y. MYRIE both hereby accept Defendants' offers of
judgment, attached hereto as Exhibits A and B, in the total amount of Fifteen Thousand and One
Dollars and Zero cents (\$15,001.00) for each Plaintiff separately, plus reasonable attorneys' fees,
expenses, and costs.

Dated: February 22, 2023

Respectfully submitted,

By:



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*Counsel for Plaintiffs Diana C. Richardson
and Zellnor Y. Myrie*

EXHIBIT A

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X

NEW YORK STATE ASSEMBLYWOMAN DIANA C.
RICHARDSON and NEW YORK STATE SENATOR
ZELLNOR Y. MYRIE,

Plaintiffs,

- against -

**RULE 68
OFFER OF JUDGMENT TO
DIANA RICHARDSON**

THE CITY OF NEW YORK, Mayor BILL de BLASIO;
NYPD Commissioner DERMOT SHEA; NYPD Chief of
Department RODNEY HARRISON, as successor in interest
to TERENCE MONAHAN (retired); and NYPD Members of
the Service JOSEPH B. TAYLOR, JESSICA CLINTON,
GIOVANNI CALDERON, SOLOMON C. JACOBS, JORGE
PEREZ, MICHAEL KOVALIK, MICHAEL A. CIOTA,
MAX BERMUDEZ, ANDREW VENTRELLA, ERIC
OLFANO, HARRY KERR, and JOHN DOE #1,

21-CV-3609 (LDH) (SJB)

Defendants.

----- X

Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendants City of New York, Bill De Blasio, Dermot Shea, Rodney Harrison, Joseph B. Taylor, Jessica Clinton, Giovanni Calderon, Solomon Jacobs, Jorge Perez, Michael Kovalik, Michael A. Ciota, Max Bermudez, Andrew Ventrella, Eric Olfano, and Harry Kerr and any defendant who is currently or subsequently named and hereafter represented by the Office of the Corporation Counsel in this action, hereby offer to allow plaintiff **Diana Richardson** to take a judgment against the City of New York in this action for the total sum of **Fifteen Thousand and One (\$15,001.00) Dollars**, plus reasonable attorney's fees, expenses, and costs to the date of this offer for Plaintiff **Diana Richardson's** federal claims. **This offer is contingent on both plaintiffs (Zellnor Myrie and Diana Richardson) accepting the Rule 68 Offers of Judgment served on February 8, 2023.**

This judgment shall be in full satisfaction of all federal and state law claims or rights that Plaintiff Diana Richardson may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted by written notice within the time allowed under the Federal Rules of Civil Procedure.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendants the City of New York, Bill De Blasio, Dermot Shea, Rodney Harrison, Joseph B. Taylor, Jessica Clinton, Giovanni Calderon, Solomon Jacobs, Jorge Perez, Michael Kovalik, Michael A. Ciota, Max Bermudez, Andrew Ventrella, Eric Olfano, and Harry Kerr; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by Plaintiff Diana Richardson arising out of the facts and circumstances that are the subject of this action.

Acceptance of this offer of judgment also will operate to waive Plaintiff Diana Richardson's rights to any claim for interest on the amount of the judgment.

Plaintiff **Diana Richardson** agrees that payment of **Fifteen Thousand and One (\$15,001.00) Dollars** within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless Plaintiff Diana Richardson received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will

provide, payment in full or in part. If Plaintiff Diana Richardson is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date Plaintiff Diana Richardson submits to counsel for defendants a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, Plaintiff Diana Richardson agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff Diana Richardson further agrees to hold harmless defendants and all past and present officials, employees, representatives and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York
February 8, 2023

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel
of the City of New York
Attorney for City, Bill De Blasio, Dermot Shea, Rodney Harrison, Joseph B. Taylor, Jessica Clinton, Giovanni Calderon, Solomon Jacobs and Jorge Perez, Michael Kovalik, Michael A. Ciota, Max Bermudez, Andrew Ventrella, Eric Olfano, and Harry Kerr
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By: /s/ Erica Bianco
Erica Bianco
Senior Counsel
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EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NEW YORK STATE ASSEMBLYWOMAN DIANA C.
RICHARDSON and NEW YORK STATE SENATOR
ZELLNOR Y. MYRIE,

Plaintiffs,

- against -

**RULE 68
OFFER OF JUDGMENT TO
ZELLNOR MYRIE**

THE CITY OF NEW YORK, Mayor BILL de BLASIO;
NYPD Commissioner DERMOT SHEA; NYPD Chief of
Department RODNEY HARRISON, as successor in interest
to TERENCE MONAHAN (retired); and NYPD Members of
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OLFANO, HARRY KERR, and JOHN DOE #1,

21-CV-3609 (LDH) (SJB)

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Pursuant to Rule 68 of the Federal Rules of Civil Procedure, defendants City of New York, Bill De Blasio, Dermot Shea, Rodney Harrison, Joseph B. Taylor, Jessica Clinton, Giovanni Calderon, Solomon Jacobs, Jorge Perez, Michael Kovalik, Michael A. Ciota, Max Bermudez, Andrew Ventrella, Eric Olfano, and Harry Kerr, and any defendant who is currently or subsequently named and hereafter represented by the Office of the Corporation Counsel in this action, hereby offer to allow plaintiff **Zellnor Myrie** to take a judgment against the City of New York in this action for the total sum of **Fifteen Thousand and One (\$15,001.00) Dollars**, plus reasonable attorney's fees, expenses, and costs to the date of this offer for Plaintiff Zellnor Myrie's federal claims. **This offer is contingent on both plaintiffs (Zellnor Myrie and Diana Richardson) accepting the Rule 68 Offers of Judgment served on February 8, 2023.**

This judgment shall be in full satisfaction of all federal and state law claims or rights that Plaintiff Zellnor Myrie may have to damages, or any other form of relief, arising out of the alleged acts or omissions of defendants or any official, employee, or agent, either past or present, of the City of New York, or any agency thereof, in connection with the facts and circumstances that are the subject of this action.

This offer of judgment may only be accepted by written notice within the time allowed under the Federal Rules of Civil Procedure.

This offer of judgment is made for the purposes specified in Rule 68 of the Federal Rules of Civil Procedure and is not to be construed as an admission of liability by defendants or any official, employee, or agent of the City of New York, or any agency thereof; nor is it an admission that plaintiff has suffered any damages.

Acceptance of this offer of judgment will act to release and discharge defendants the City of New York, Bill De Blasio, Dermot Shea, Rodney Harrison, Joseph B. Taylor, Jessica Clinton, Giovanni Calderon, Solomon Jacobs, Jorge Perez, Michael Kovalik, Michael A. Ciota, Max Bermudez, Andrew Ventrella, Eric Olfano, and Harry Kerr; their successors or assigns; and all past and present officials, employees, representatives, and agents of the City of New York, or any agency thereof, from any and all claims that were or could have been alleged by Plaintiff Zellnor Myrie arising out of the facts and circumstances that are the subject of this action.

Acceptance of this offer of judgment also will operate to waive Plaintiff Zellnor Myrie's rights to any claim for interest on the amount of the judgment.

Plaintiff **Zellnor Myrie** agrees that payment of **Fifteen Thousand and One (\$15,001.00) Dollars** within ninety (90) days of the date of acceptance of the offer shall be a reasonable time for such payment, unless Plaintiff Zellnor Myrie received medical treatment in connection with the underlying claims in this case for which Medicare has provided, or will

provide, payment in full or in part. If Plaintiff Zellnor Myrie is a Medicare recipient who received medical treatment in connection with the claims in this case, the ninety (90) day period for payment shall start to run from the date Plaintiff Zellnor Myrie submits to counsel for defendants a final demand letter from Medicare.

By acceptance of this Rule 68 Offer of Judgment, Plaintiff Zellnor Myrie agrees to resolve any claim that Medicare may have for reimbursement of conditional payments it has made as secondary payer, and a Medicare Set-Aside Trust shall be created, if required by 42 U.S.C. § 1395y(b) and 42 C.F.R. §§ 411.22 through 411.26. Plaintiff Zellnor Myrie further agrees to hold harmless defendants and all past and present officials, employees, representatives and agents of the City of New York, or any agency thereof, regarding any past and/or future Medicare payments, presently known or unknown, made in connection with this matter.

The judgment shall contain and recite the terms and conditions set forth herein.

Dated: New York, New York
February 8, 2023

HON. SYLVIA O. HINDS-RADIX
Corporation Counsel
of the City of New York
Attorney for City, Bill De Blasio, Dermot Shea, Rodney Harrison, Joseph B. Taylor, Jessica Clinton, Giovanni Calderon, Solomon Jacobs, Jorge Perez, Michael Kovalik, Michael A. Ciota, Max Bermudez, Andrew Ventrella, Eric Olfano, and Harry Kerr
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By: /s/ Erica Bianco
Erica Bianco
Senior Counsel
Special Federal Litigation Division

TO: VIA FIRST CLASS MAIL
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Attorney for Plaintiffs

CERTIFICATE OF SERVICE

This is to certify that on February 22, 2023 I served a copy of Plaintiffs' Notice of Acceptance of Defendants' Rule 68 Offer of Judgment by email upon counsel for Defendant listed below.

Hon. Sylvia O. Hinds-Radix
Corporation Counsel of the City of New York
Attorney for Defendants
100 Church Street, 3rd Floor
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shradix@law.nyc.gov

Dated: June 15, 2023

A handwritten signature in black ink, appearing to read 'Joshua A. Matz', is written over a horizontal line.

Joshua A. Matz
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*Counsel for Plaintiffs Diana C.
Richardson and Zellnor Y. Myrie*